

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

PAULA JACKSON,

Plaintiff,

vs.

Case No. 07-CV-74-FHM

MICHAEL J. ASTRUE,
Commissioner, Social Security
Administration,

Defendant.

ORDER

Plaintiff seeks an award of fees in the amount of \$4,923.30 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. [Dkt. 21]. The Commissioner agrees that Plaintiff should be awarded fees in the requested amount. Plaintiff asserts that she assigned her rights to an EAJA award to her attorney and requests that the fee be paid directly to her attorney. [Dkt. 25, p. 5].

The undersigned finds that the amount of the fee request is reasonable. Based on that finding and the absence of any objection to the amount of the fee request, the undersigned finds that Plaintiff should be awarded EAJA fees in the amount of \$ 4,923.30. Pursuant to the Commissioner's usual practice, the check should be made payable to Plaintiff and mailed to counsel's address. *See Manning v. Astrue*, 510 F.3d 1246, 1254-55 (10th Cir. 2007)(the award of EAJA attorney's fees is to claimant and not to the attorney). The existence of an assignment is a collateral matter which does not overcome the clear EAJA mandate that the award is to Plaintiff as the prevailing party. *See Hall v. Astrue*, 2008 WL 905218 (10th Cir. April 4, 2008) (private contractual matter between counsel and plaintiff is a collateral matter which the district court was not required to address in EAJA

order), *Brown v. Astrue*, 2008 WL 822267 *2 (10th Cir. March 27, 2008) (assignment of right in fee award to counsel does not overcome the clear EAJA mandate that the award is to the client as prevailing party). If the attorney receives the fees awarded herein and attorney fees are also awarded and received by counsel under 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Plaintiff's Motion for Attorney's Fees and Expenses Under the Equal Access to Justice Act [Dkt. 21] is GRANTED as provided herein.

SO ORDERED this 8th day of May, 2008.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE